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IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

SECOND APPELLATE DISTRICT

DIVISION EIGHT

In re MALIYAH L., a Person Coming  
Under the Juvenile Court Law.

B277934

LOS ANGELES COUNTY  
DEPARTMENT OF CHILDREN  
AND FAMILY SERVICES,

(Los Angeles County  
Super. Ct. No. DK17879)

Plaintiff and Respondent,

v.

D.L.,

Defendant and Appellant.

APPEAL from orders of the Superior Court of Los Angeles  
County, John Parker, Judge. Affirmed.

Donna Balderston Kaiser, under appointment by the Court  
of Appeal, for Appellant.

Mary C. Wickham, County Counsel, R. Keith Davis,  
Assistant County Counsel, and Sarah Vesecky, Deputy County  
Counsel, for Respondent.

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Father D.L. appeals from a dispositional order which placed his daughter, Maliyah L., with him under Welfare and Institutions Code section 361.2.<sup>1</sup> Father asserts the court abused its discretion by not terminating jurisdiction after placing Maliyah with him and by ordering him to parenting classes. We affirm.

### **FACTS**

Carissa P. (Mother) has two children, seven-year-old Maliyah with Father and two-year-old Devon S. with Derek S. On June 11, 2016, Mother was arrested for driving under the influence with a blood alcohol level of .25. The children were in the car with her and were detained by the police, who reported the matter to the Los Angeles Department of Children and Family Services (DCFS). Mother was initially uncooperative when the children's services worker (CSW) attempted to interview her at the Hawthorne Police Department. However, she apologized the next day and assured the CSW she would do whatever was necessary to reunify with her children.

Mother explained she and Devon's father, Derek, argued over whether she should buy a new car. Derek left after they arrived home from the car dealership. Mother drank vodka and Powerade, although she knew she was supposed to take Maliyah to Father's for the weekend. She drove the children in her new car. She was stopped at a checkpoint in Hawthorne. Maliyah confirmed that they went to a dealer to buy a car, that Mother and Derek argued, and she asked Mother to drive her to visit Father and paternal grandmother.

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<sup>1</sup> All further section references are to the Welfare and Institutions Code unless otherwise specified.

Maliyah was able to give the CSW information about where Father and maternal grandmother lived. The CSW noted Maliyah was “very bright for her age” and appeared active and alert.

Father believed Mother was a good mother, but felt she needed counseling because she was still mourning the deaths of her mother and grandmother. He advised the CSW he and Mother did not have a good relationship. She felt he was insufficiently involved in Maliyah’s life. He believed that was Mother’s fault because she cut contact with him after their relationship ended. Further, Mother did not provide him with any details of Maliyah’s life, including which school she attends. Maliyah also spent more time with Derek than with him. He reported that Maliyah visits with him and his family “most weekends.”

Derek reported he has known Maliyah since she was two years old and “she is like a daughter to him.” When the CSW inspected his home, there was clothing and bedding for Devon and Maliyah. Derek also believed Devon should have a relationship with Maliyah because she is her sister.

At the June 15, 2016 detention hearing, the juvenile court ordered the children to be placed with their respective fathers. Family maintenance services were ordered for the children and enhancement services for Mother. Mother was ordered to substance abuse counseling and random testing as well as parenting classes and individual counseling. DCFS was ordered to set up sibling visits and monitored visits with Mother three times a week.

Mother reported on August 2, 2016, that she saw Devon “practically every day,” but she had not had ongoing contact with Maliyah. Whenever she contacted Father, he told her Maliyah was busy and unable to speak to her. Mother did not want to anger Father so she failed to report the difficulty she was having with the visits. From June to August 2016, the sisters had two sibling visits. There was no indication that Mother had any visits with Maliyah during that time.

In an August 5, 2016 interview, Father denied knowing Mother was drunk on the night in question although “there were times [he] was concerned.” He believed “there was maybe one time when I thought she was maybe drunk.” Father, however, denied Mother’s speech was slurred or that she appeared seriously impaired. Father said he would never allow Mother to drive with the children if he knew she was impaired. Father indicated to DCFS that he wanted equal custody of Maliyah. Maliyah, on the other hand, wanted to be placed with Derek and Mother; she missed her little sister and Mother.

In its jurisdiction/disposition report, DCFS noted Father’s strengths were that he had stable housing, was open to facilitating Mother’s visits, and had supportive friends and family members. DCFS recommended continued jurisdiction, however, stating it “d[id] not believe a family law order would be appropriate at this time as the child, prior to placement with father, did not maintain ongoing contact with her father. The child is building a relationship with father. Also, the children’s mother has demonstrated a willing[ness] to do what is needed to have her children returned to her care. Therefore, the Department believes the children’s mother would benefit from Family Reunification Services.” DCFS further recommended

“[F]ather would benefit from participation in parenting education.”

At the disposition hearing on the morning of August 15, 2016, the juvenile court initially indicated it would terminate jurisdiction as to Maliyah and asked DCFS to craft a custody order to ensure Mother’s relationship with Maliyah was protected. It later stated, however, “this certainly is a close case as to whether the case needs to remain open” and decided to continue the matter until the afternoon. Father waived his appearance in the afternoon session to take Maliyah to school.

When court reconvened, the juvenile court stated, “any of the issues of disposition, all the issues are fair game.” Father’s counsel objected to the court’s “reconsideration” of the disposition, arguing she waived Father’s presence with the understanding that the order had already been made. The juvenile court then offered her a continuance to allow Father to present evidence of text messages countering Mother’s accusations that he prevented her from seeing Maliyah.

After conferring with Father over the phone, counsel informed the juvenile court he objected to continued jurisdiction, but waived his right to a continuance to testify. She informed the juvenile court she spoke with Maliyah’s counsel and prepared a visitation schedule of Monday, Friday, and Saturday, which would allow “Mother . . . the option of completing her programs, going to Family Law court, showing completion of the programs as a change in circumstances to obtain unmonitored visits and even joint physical custody.”

While praising Father for doing an “admirable” job, the juvenile court stated it had failed to take into consideration Maliyah’s feelings about not being bonded to him because he had

not been in her life very much in the past. The juvenile court reasoned Maliyah and Father need “some substantial services so that the two of them are going to be more bonded together than I think they are now. And I think that if we don’t do that and if we don’t give the minor the opportunity to have her mother rehabilitated in this case, I think it’s going to be detrimental to the minor to not have that [as] a viable opportunity for her and the mother.” The court further cited “some significant problem with the visits in the past” as a reason to continue jurisdiction.

The children were ordered to remain with their respective fathers, but jurisdiction remained open for both. Monitored visits for Mother at least three times a week were also ordered. Father timely appealed.

## **DISCUSSION**

Father challenges the juvenile court’s decision to continue jurisdiction over Maliyah and to order Father to parenting classes, arguing there is no evidence to support either order as DCFS has noted no issues with Maliyah’s placement with him.

### **I. Jurisdiction**

#### **A. Statutory Scheme and Standard of Review**

After a child has been declared a dependent of the court on the ground she is a person described by section 300, the juvenile court must determine whether to take the child from the custody of the parent with whom she resides. (§ 361, subd. (c).) If the juvenile court removes the child, the child must be placed with the nonoffending, noncustodial parent who wants custody “unless it finds that placement with that parent would be detrimental to the safety, protection, or physical or emotional well-being of the child.” (§ 361.2, subd. (a).)

If there is no detriment to the child's well-being in placing her with the noncustodial parent, the juvenile court has three choices:

"(1) Order that the parent become legal and physical custodian of the child. The court may also provide reasonable visitation by the noncustodial parent. The court shall then terminate its jurisdiction over the child. The custody order shall continue unless modified by a subsequent order of the superior court. The order of the juvenile court shall be filed in any domestic relation proceeding between the parents.

"(2) Order that the parent assume custody subject to the jurisdiction of the juvenile court and require that a home visit be conducted within three months . . . .

"(3) Order that the parent assume custody subject to the supervision of the juvenile court. In that case the court may order that reunification services be provided to the parent or guardian from whom the child is being removed, or the court may order that services be provided solely to the parent who is assuming physical custody in order to allow that parent to retain later custody without court supervision, or that services be provided to both parents, in which case the court shall determine, at review hearings held pursuant to Section 366, which parent, if either, shall have custody of the child." (§ 361.2, subd. (b).)

"In examining section 361.2, subdivisions (a) and (b), it is clear that the Legislature envisioned a two-step process: under subdivision (a), the court examines whether it would be detrimental to temporarily place a child with the nonoffending noncustodial parent; under subdivision (b), the court decides whether that placement should be permanent and whether the court's jurisdiction should be terminated." (*In re Austin P.* (2004)

118 Cal.App.4th 1124, 1131.) Under section 361.2, subdivision (c), the court “shall make a finding either in writing or on the record of the basis for its determination under subdivisions (a) and (b).”

We will not disturb on appeal a decision to continue jurisdiction over the child unless the juvenile court has exceeded the limits of legal discretion by making an arbitrary, capricious, or patently absurd determination. (*In re Austin P.*, *supra*, 118 Cal.App.4th at p. 1130; *In re J.S.* (2011) 196 Cal.App.4th 1069, 1079; see also *In re Stephanie M.* (1994) 7 Cal.4th 295, 318-319.) The juvenile court’s factual findings are reviewed for substantial evidence. (*In re Austin P.*, *supra*, 118 Cal.App.4th at p. 1134.)

### **B. Analysis**

Father contends there is no evidence to support the court’s continued supervision over Maliyah. Father has no criminal record, no protective services record, has custody of his other children, and has no allegations made against him in this matter. Further, there are no safety or parenting issues which would justify continued jurisdiction. We disagree and conclude the juvenile court properly exercised its discretion to continue its jurisdiction over Maliyah.

Father’s appeal presents substantially similar facts to those discussed in *In re Austin P.*, *supra*, 118 Cal.App.4th at page 1124. There, the court rejected a father’s assertion that the trial court abused its discretion by not giving him full legal and physical custody of his son and terminating jurisdiction absent a finding that it would be detrimental to his son to do so. (*Id.* at p. 1130.) The court held that section 361.2, subdivision (a) required the child be placed only temporarily in the physical custody of the nonoffending, noncustodial parent if doing so



would not be detrimental to the child. The trial court, however, could not terminate jurisdiction until it analyzed whether ongoing supervision of the child was necessary. (*In re Austin P.*, *supra*, 118 Cal.App.4th at p. 1134; *see also In re Sarah M.* (1991) 233 Cal.App.3d 1486, 1498, disapproved on another ground by *In re Chantal* (1996) 13 Cal.4th 196, 204.)

Substantial evidence showed a need for continuing supervision in *In re Austin P.* because the social worker felt the son's transition into the father's home should be monitored, in view of their sporadic contact over the past 10 years. Although the son was happy living with the father, he wanted to reunite with the mother since he was more bonded with her and she was the only parental figure he had ever known. Additionally, the mother was progressing well with her reunification plan. The social worker was concerned the father and his wife had not taken steps to protect the son despite knowing he had been physically abused and neglected by the mother. Also, the trial court wanted to monitor the conflict among the adults and ensure the son was not blamed for the dependency. (*In re Austin P.*, *supra*, 118 Cal.App.4th at pp. 1134-1135.)

We likewise find substantial evidence supports a need for continued supervision over Maliyah. As in *In re Austin P.*, the juvenile court was concerned with Maliyah's bond with Father. Although it appeared Maliyah was doing well at Father's home, she had not lived with him prior to this referral and expressed a desire to reunite with Mother, whom she missed. Mother was also progressing well in her reunification plan.

Further, there was evidence that Mother and Father did not get along. Father admitted as much in his interviews with DCFS and Mother claimed she had trouble seeing Maliyah due to

Father's obstruction. The children were detained and placed with their fathers in June 2016. By August 11, 2016, Mother had no visits with Maliyah, but Maliyah had had two visits with Devon. Mother stated on August 2, 2016, she "has not had ongoing contact with . . . Maliyah." Mother told DCFS that whenever she contacted Father, he claimed Maliyah was busy and not able to speak to her. Like the juvenile court in *In re Austin P.*, the juvenile court in this case wanted to monitor the conflict among the adults to ensure Mother had visitation with Maliyah and an opportunity to reunite with her. Given the circumstances, the juvenile court did not abuse its discretion to continue jurisdiction over Maliyah.

## **II. Parenting Classes**

At the dispositional hearing, Maliyah's counsel and DCFS suggested Father participate in a parenting class to help him bond with Maliyah. The juvenile court ordered the parenting class over Father's objection. On appeal, Father contends there is no evidence indicating his parenting skills are deficient or that there was any evidence his bond with Maliyah was deficient. Substantial evidence shows otherwise.

"The juvenile court has broad discretion to determine what would best serve and protect the child's interests and to fashion a dispositional order accordingly." (*In re Baby Boy H.* (1998) 63 Cal.App.4th 470, 474.) The juvenile court may make "all reasonable orders for the care, supervision, custody, conduct, maintenance, and support of the child." (§ 362, subd. (a); *In re Jasmin C.* (2003) 106 Cal.App.4th 177, 180 (*Jasmin*).) Thus, the juvenile court may address issues in its dispositional orders which apply to the nonoffending parent and which are not described in the sustained section 300 petition. (*In re Briana V.*

(2015) 236 Cal.App.4th 297, 311; *In re Christopher H.* (1996) 50 Cal.App.4th 1001, 1006-1008.)

On appeal, the juvenile court's dispositional orders are reviewed for abuse of discretion while its factual findings are subject to review for substantial evidence. (*In re Christopher H.*, *supra*, 50 Cal.App.4th at pp. 1006-1008; *In re Ronell A.* (1996) 44 Cal.App.4th 1352, 1361-1362.) Substantial evidence is any evidence which is of ponderable legal significance but it is not synonymous with any evidence; rather it must be "reasonable, credible and of solid value . . . ." (*In re Jasmine C.* (1999) 70 Cal.App.4th 71, 75.)

Here, substantial evidence supports the dispositional order and the juvenile court did not abuse its discretion in ordering Father to parenting classes. The record shows Father has not always been present in Maliyah's life. Mother reported she began having a difficult time after 2014 when her house was sold and she began to drink. Although she and Maliyah were living in a motel, Father "wasn't helping out" and failed to pay \$80 per month in child support during this time. She stated, "For years we struggled and he did nothing."

Father admitted he does not have a good relationship with Mother. As a result, he does not know many details of Maliyah's life, included which school she attends. Although Maliyah visits with him and his family "most weekends," it does not appear that Father has asked Maliyah herself about her life. Maliyah was described as a "very bright" seven year old, who readily answered questions posed by the CSW. She knew details about Father, including where Father and paternal grandmother lived.

Father also reported Mother believes he is not involved with Maliyah enough. He did not deny the accusation, but complained “that is her fault” because Mother blocked him from “really being there for Maliyah in all areas of her life” after they broke up. He also felt that Derek had more time with Maliyah and that is his biggest complaint about Mother. Importantly, Maliyah expressed a wish to be reunited with Mother and Devon rather than remain with Father, stating she missed them. Substantial evidence supports a finding that Father’s bond with Maliyah would benefit from parenting classes. The juvenile court did not abuse its discretion in ordering parenting classes.

Father’s reliance on *In re Sergio C.* (1999) 70 Cal.App.4th 957 (*Sergio C.*) and in *Jasmin, supra*, is misplaced. In *Jasmin*, the juvenile court imposed a parenting class condition on the mother without making any findings or giving any explanation for its order. (*Jasmin, supra*, 106 Cal.4th at pp. 181-182.) As discussed above, the juvenile court here clearly set out its reasoning on the record.

*Sergio C.* also presents distinguishable facts. There, the father was ordered to random drug testing “based solely on the unsworn and uncorroborated allegation of an admitted drug addict who has abandoned her children.” (*Sergio C., supra*, 70 Cal.App.4th at p. 960.) Further, the father denied any involvement with drugs and had otherwise fully cooperated with the juvenile court’s orders. As a result, the court felt “there must be some investigation by DCFS to warrant the kind of invasive order that was made here.” (*Ibid.*) Here, DCFS interviewed all parties and supported its recommendation with Father’s own admissions and Mother’s statements. Substantial evidence supports the order to parenting classes.

**DISPOSITION**

The challenged orders are affirmed.

BIGELOW, P.J.

We concur:

FLIER, J.

GRIMES, J.